

EXHIBIT C

EXHIBIT

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1 IN THE UNITED STATES DISTRICT COURT
 2 FOR THE MIDDLE DISTRICT OF ALABAMA
 3 NORTHERN DIVISION

4 ELIZABETH HORTON,

5 Plaintiff,

6 vs. CASE NUMBER
 2:06cv-526-MHT-TFM

7 DON WILLIAMS, individually and in his
 8 capacity as the Manager of National
 9 Seating and Mobility, Inc., NATIONAL
 10 SEATING AND MOBILITY, INC., GERALD
 11 SHOCKLEY, individually and in his
 12 capacity of a special agent of the
 13 Alabama Attorney General's Office,

14 Defendants.

15 DEPOSITION OF CLIFFORD JOHNSON,
 16 taken pursuant to stipulation and
 17 agreement before Barbara A. Howell, CCR,
 18 Commissioner for the State of Alabama at
 19 Large, ACCR No. 123, in the Bradley,
 20 Arant, Rose & White Conference Room,
 21 401 Adams Avenue, Room 712, Montgomery,
 22 Alabama, on Wednesday, January 30, 2008,
 23 commencing at approximately 11:20 a.m.

I N D E X

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 Memo Dated June 14, 2005, from
 Cliff Johnson to File

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A P P E A R A N C E S

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S T I P U L A T I O N S

It is hereby stipulated and agreed
 by and between counsel representing the
 parties that the deposition of CLIFFORD
 JOHNSON is taken pursuant to the Federal
 Rules of Civil Procedure and that said
 deposition may be taken before
 Barbara A. Howell, Court Reporter and
 Commissioner for the State of Alabama at
 Large, without the formality of a
 commission; that objections to questions
 other than objections as to the form of
 the questions need not be made at this
 time but may be reserved for a ruling at
 such time as the deposition may be
 offered in evidence or used for any
 other purpose as provided for by the
 Federal Rules of Civil Procedure.

It is further stipulated and agreed
 by and between counsel representing the
 parties in this case that said
 deposition may be introduced at the
 trial of this case or used in any manner

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<p>1 by either party hereto provided for by</p> <p>2 the Federal Rules of Civil Procedure.</p> <p>3</p> <p>4 * * * * *</p> <p>5</p> <p>6 CLIFFORD JOHNSON</p> <p>7 The witness, having first been duly</p> <p>8 sworn or affirmed to speak the truth,</p> <p>9 the whole truth, and nothing but the</p> <p>10 truth, testified as follows:</p> <p>11 EXAMINATION</p> <p>12 BY MS. NICKSON:</p> <p>13 Q. Mr. Johnson, would you state your name</p> <p>14 for the record, please.</p> <p>15 A. Clifford Johnson.</p> <p>16 Q. Mr. Johnson, I am Deborah Nickson and I</p> <p>17 am the attorney for Elizabeth Horton.</p> <p>18 And have you heard the name Elizabeth</p> <p>19 Horton before?</p> <p>20 A. Yes, ma'am.</p> <p>21 Q. Have you met Ms. Horton?</p> <p>22 A. Yes, ma'am.</p> <p>23 Q. All right. And you do know that this</p>	<p>1 Medicaid Agency?</p> <p>2 A. I'm the chief investigator for the</p> <p>3 investigation unit.</p> <p>4 Q. And how long, Mr. Johnson, have you</p> <p>5 been with them?</p> <p>6 A. With Medicaid?</p> <p>7 Q. Yes, sir.</p> <p>8 A. Since 1993. So what's that?</p> <p>9 Q. Okay. Well, what, about sixteen years</p> <p>10 or thirteen, fourteen years?</p> <p>11 A. Yeah.</p> <p>12 Q. Yes.</p> <p>13 A. That sounds right.</p> <p>14 MR. STEWART: Lawyers aren't</p> <p>15 good at math.</p> <p>16 Q. So you've been with the Medicaid Agency</p> <p>17 for approximately fifteen years?</p> <p>18 A. Yes.</p> <p>19 Q. And you're the chief?</p> <p>20 A. Yes, ma'am.</p> <p>21 Q. Excellent. And Mr. Anthony Green, does</p> <p>22 he work under your supervision?</p> <p>23 A. Yes, he does.</p>
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<p>1 is involving a federal lawsuit that</p> <p>2 Ms. Horton has filed, a lawsuit against</p> <p>3 three defendants; that's National</p> <p>4 Seating & Mobility, Don Williams, and</p> <p>5 Gerald Shockley.</p> <p>6 A. I do know, yes.</p> <p>7 Q. And this is all concerning she's</p> <p>8 alleging that she was wrongfully</p> <p>9 arrested and they are responsible for</p> <p>10 injury to her. That's her contention.</p> <p>11 Okay?</p> <p>12 A. Yes, ma'am.</p> <p>13 Q. So this action is not directed against</p> <p>14 you. You're here today because your</p> <p>15 name is one of the investigators that</p> <p>16 was in the file --</p> <p>17 A. Yes, ma'am.</p> <p>18 Q. -- in the discovery that we got from</p> <p>19 the Medicaid Agency.</p> <p>20 A. Yes, ma'am.</p> <p>21 Q. All right. I just want to ask you some</p> <p>22 questions first just about you</p> <p>23 personally. What do you do for the</p>	<p>1 Q. What is your educational background?</p> <p>2 A. High school graduate, B.S. degree in</p> <p>3 criminal justice, and a minor in</p> <p>4 psychology and recreation at Alabama</p> <p>5 State University. Graduated in 1983.</p> <p>6 Q. And let me just direct your attention,</p> <p>7 please, to the situation concerning</p> <p>8 Ms. Horton.</p> <p>9 A. Okay.</p> <p>10 Q. You got a complaint on your desk for</p> <p>11 investigation. Am I correct?</p> <p>12 A. Yes.</p> <p>13 Q. Who filed the complaint?</p> <p>14 A. It came through my office from Felecia</p> <p>15 Barrow of the prior approval unit. A</p> <p>16 letter came in through the prior</p> <p>17 approval unit with the fact --</p> <p>18 regarding some information about</p> <p>19 National Seating & Mobility not</p> <p>20 providing services to Medicaid</p> <p>21 recipients.</p> <p>22 Q. And was the letter directed to you</p> <p>23 or -- if you remember?</p>

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<p>1 A. I don't recall offhand. But if you</p> <p>2 have it on hand -- I don't recall if it</p> <p>3 was directed to me exactly, no.</p> <p>4 Q. But all you know, you got a</p> <p>5 complaint --</p> <p>6 A. Yeah.</p> <p>7 Q. -- from Ms. Barrow?</p> <p>8 A. Yes.</p> <p>9 Q. And what, if anything, did the</p> <p>10 complaint state?</p> <p>11 A. I don't have it on hand. But the</p> <p>12 letter came in to the fact that -- it</p> <p>13 was a letter that was sent to the</p> <p>14 Medicaid Agency and to the attorney</p> <p>15 general's office regarding the</p> <p>16 complaint about National Seating &</p> <p>17 Mobility not providing services to</p> <p>18 Medicaid recipients. And once the</p> <p>19 complaint came in, we in turn put that</p> <p>20 complaint on our own official complaint</p> <p>21 form as to company not providing</p> <p>22 services rendered or something of that</p> <p>23 magnitude.</p>	<p>1 And after this complaint comes</p> <p>2 in, we in turn look up the provider</p> <p>3 information, their name, to make sure</p> <p>4 they are a Medicaid provider. And once</p> <p>5 we determine they are a Medicaid</p> <p>6 provider, we in turn have the complaint</p> <p>7 assigned to one of the investigators to</p> <p>8 do further investigative work.</p> <p>9 Q. Do you remember the approximate time</p> <p>10 frame when you received the first</p> <p>11 complaint?</p> <p>12 A. No, ma'am.</p> <p>13 Q. Let me show you what I have marked as</p> <p>14 Plaintiff's Exhibit #3. If you would</p> <p>15 review that for me, please.</p> <p>16 (Brief pause while witness</p> <p>17 reviews document)</p> <p>18 A. Okay. Yes, ma'am. Okay. And your</p> <p>19 question regarding this --</p> <p>20 Q. Are you familiar with this document?</p> <p>21 A. Yes, ma'am.</p> <p>22 Q. Have you seen this?</p> <p>23 A. Yes, ma'am.</p>
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<p>1 Q. And who was the complainant that was</p> <p>2 identified?</p> <p>3 A. Ms. Horton.</p> <p>4 Q. All right. And then what, if anything,</p> <p>5 happened after that?</p> <p>6 A. After the complaint came in, again --</p> <p>7 here's one of the exhibits here, if I</p> <p>8 can use this.</p> <p>9 Q. Yeah, sure.</p> <p>10 MS. NICKSON: Witness is</p> <p>11 referring to Plaintiff's</p> <p>12 Exhibit #1.</p> <p>13 A. Yes. This would be the complaint form.</p> <p>14 Once the complaint comes into our</p> <p>15 agency, we in turn write it down on</p> <p>16 this complaint form here saying that</p> <p>17 who called in the complaint or if it's</p> <p>18 anonymous, or information. And in</p> <p>19 turn, we'll put it down as billing for</p> <p>20 services not rendered to recipient. It</p> <p>21 says here, Also forging recipient names</p> <p>22 on delivery tickets for durable medical</p> <p>23 equipment.</p>	<p>1 Q. Now, when you say that a complaint came</p> <p>2 in from the Medicaid area, is this what</p> <p>3 you --</p> <p>4 A. Yes, ma'am.</p> <p>5 Q. -- were referring to?</p> <p>6 MS. NICKSON: And the</p> <p>7 witness has referred to</p> <p>8 Plaintiff's Exhibit #3.</p> <p>9 Q. And is this the document that you use</p> <p>10 to draft your complaint form to begin</p> <p>11 an investigation?</p> <p>12 A. I will say yes. I'm going to say yes,</p> <p>13 but there might have been some other --</p> <p>14 Q. Documentation?</p> <p>15 A. -- documents that came in also. But</p> <p>16 yes, that looks familiar also.</p> <p>17 Q. All right. And we subpoenaed these</p> <p>18 records, and this letter from Felecia</p> <p>19 to Dr. McIntyre just cited some</p> <p>20 infractions with National Mobility.</p> <p>21 She begins this memo by saying, Please</p> <p>22 find attached examples of wheelchair</p> <p>23 assessments that have been submitted.</p>

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<p>1 Do you remember reviewing any</p> <p>2 assessments that were submitted that</p> <p>3 did not bear dates on them, clinic</p> <p>4 dates?</p> <p>5 MR. STEWART: Object to the</p> <p>6 form.</p> <p>7 A. I did not review it, no, because,</p> <p>8 again, once the letter comes in, I</p> <p>9 would have the case file assigned to</p> <p>10 one of the investigators.</p> <p>11 Q. Yes, sir. And you just write it up and</p> <p>12 assign it out?</p> <p>13 A. Yes.</p> <p>14 Q. I'm going to show you what we'll mark</p> <p>15 as Plaintiff's Exhibit #5, and it's</p> <p>16 Bates Drab Page 11-12, 11 and 12. If</p> <p>17 you would review that for me, please,</p> <p>18 Mr. Johnson.</p> <p>19 (Plaintiff's Exhibit #5 was</p> <p>20 marked for identification.)</p> <p>21 MR. STEWART: I've got two</p> <p>22 documents. One is,</p> <p>23 like, a memo of June 14</p>	<p>1 basically at the same time, I contacted</p> <p>2 Investigator Mike Roeder and asked him</p> <p>3 did he receive the complaint regarding</p> <p>4 National Seating & Mobility, and he in</p> <p>5 turn said yes. And this letter here</p> <p>6 let him know that, you know, we also</p> <p>7 received the letter and if they had any</p> <p>8 kind of information and they wanted,</p> <p>9 like, a joint investigation with my</p> <p>10 investigator and their investigators,</p> <p>11 to contact me at a later date to assist</p> <p>12 in the allegation, I guess, against</p> <p>13 National Seating & Mobility.</p> <p>14 Q. And this complaint was filed as an</p> <p>15 anonymous complainant?</p> <p>16 MR. STEWART: Object to</p> <p>17 form.</p> <p>18 A. Yes, ma'am.</p> <p>19 Q. So this is a different complainant than</p> <p>20 Elizabeth Horton?</p> <p>21 MR. STEWART: Object to</p> <p>22 form.</p> <p>23 MR. WALKER: Object to form.</p>
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<p>1 and another is July 12.</p> <p>2 Do you mean to mark</p> <p>3 those together?</p> <p>4 MS. NICKSON: Yes.</p> <p>5 A. Yeah, it's two dates here, July 12 and</p> <p>6 July 14.</p> <p>7 Q. All right. Now, on the Bates Drab 11,</p> <p>8 page 11, Plaintiff's Exhibit #5, would</p> <p>9 you identify this document for the</p> <p>10 record, please.</p> <p>11 A. Okay. This here is a memo that was</p> <p>12 generated by myself after I received</p> <p>13 information regarding National</p> <p>14 Seating -- National Seating & Mobility.</p> <p>15 And after this information was</p> <p>16 received -- again, the letter came out</p> <p>17 to Medicaid and to the attorney</p> <p>18 general's office. And we have a</p> <p>19 memorandum of understanding that if we</p> <p>20 get a complaint against a provider, we</p> <p>21 are to refer that information over to</p> <p>22 the attorney general's office. Since</p> <p>23 the complaint came in to both agencies</p>	<p>1 A. I'm going to say it's an anonymous</p> <p>2 complaint. So based on that, yeah, it</p> <p>3 would be different than the one from</p> <p>4 Elizabeth Horton, yes.</p> <p>5 Q. Now, let's talk about the contents of</p> <p>6 the complaint by this anonymous</p> <p>7 complainant. If we can, just -- if you</p> <p>8 can review the document, refresh your</p> <p>9 memory as to what was the complaint by</p> <p>10 this caller --</p> <p>11 MR. STEWART: Object to the</p> <p>12 form.</p> <p>13 Q. -- against National Seating & Mobility.</p> <p>14 MR. STEWART: Same</p> <p>15 objection.</p> <p>16 A. Okay. And again, I say we have a</p> <p>17 fraud-reporting hotline. When the call</p> <p>18 comes in, a person comes in -- calls in</p> <p>19 saying that we have a complaint against</p> <p>20 a provider and the caller indicates</p> <p>21 this company has several forged</p> <p>22 documents regarding recipient</p> <p>23 signatures and delivery tickets for</p>

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<p>1 durable medical equipments and</p> <p>2 supplies, improper billing, using</p> <p>3 update -- outdated prescriptions</p> <p>4 submitted for surgical supplies. The</p> <p>5 caller also stated that the -- an</p> <p>6 ex-employee of this company and that</p> <p>7 she has reported this fraudulent</p> <p>8 complaint to the district attorney's</p> <p>9 office -- attorney general's office and</p> <p>10 to the Medicaid office, also.</p> <p>11 Q. And then the latter part of that</p> <p>12 sentence --</p> <p>13 A. That's --</p> <p>14 Q. -- the complainant said what?</p> <p>15 A. No. The latter part of the sentence --</p> <p>16 this the part where I was saying</p> <p>17 earlier where once we get a complaint</p> <p>18 about a provider, once the letter says</p> <p>19 the complaint went to the attorney</p> <p>20 general's office, again, we have an</p> <p>21 understanding with the AG's office that</p> <p>22 we -- they work provider fraud cases.</p> <p>23 And if we show cause that a provider</p>	<p>1 A. Yes, ma'am.</p> <p>2 MR. STEWART: Object to the</p> <p>3 form.</p> <p>4 Q. -- than Elizabeth?</p> <p>5 MR. STEWART: Same</p> <p>6 objection.</p> <p>7 MR. WALKER: Object to the</p> <p>8 form.</p> <p>9 Q. Did your office join in a joint</p> <p>10 investigation with this complaint?</p> <p>11 A. No, ma'am.</p> <p>12 Q. So you don't know what came of this</p> <p>13 complaint, this anonymous complainant's</p> <p>14 complaint?</p> <p>15 A. I want -- yes, I do, but . . .</p> <p>16 Q. What happened it?</p> <p>17 A. Well, later on, we -- after months down</p> <p>18 the line, it was determined, after</p> <p>19 talking with the investigators</p> <p>20 afterwards, where they had said they</p> <p>21 had Ms. -- someone arrested for</p> <p>22 providing false information to a law</p> <p>23 enforcement officer. And, therefore,</p>
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<p>1 has committed Medicaid fraud abuse, we</p> <p>2 in turn have to have that case pulled</p> <p>3 over to the attorney general's office</p> <p>4 for prosecution.</p> <p>5 Q. Prosecution.</p> <p>6 A. Further prosecution, yes.</p> <p>7 Q. Yes, sir. Right there in the last</p> <p>8 sentence in that first paragraph, the</p> <p>9 caller said, according to this memo,</p> <p>10 that she has filed a qui tam --</p> <p>11 A. Qui tam.</p> <p>12 Q. -- lawsuit with the attorney general's</p> <p>13 office?</p> <p>14 A. Yes, ma'am.</p> <p>15 Q. Did you ever see that lawsuit?</p> <p>16 A. No, ma'am.</p> <p>17 Q. Did Elizabeth file one?</p> <p>18 A. I will have -- I don't know.</p> <p>19 Q. So you've not seen one filed by</p> <p>20 Elizabeth Horton?</p> <p>21 A. No.</p> <p>22 Q. All right. So as far as you know, this</p> <p>23 is a different complainant --</p>	<p>1 from talking with Investigator Mike</p> <p>2 Roeder -- I know him personally. So in</p> <p>3 turn, they are the ones investigated</p> <p>4 the complaint against National</p> <p>5 Seating & Mobility. And that's when</p> <p>6 Ms. Horton's name surmises [sic].</p> <p>7 Q. Oh, okay. So he told you they had her</p> <p>8 arrested?</p> <p>9 A. No.</p> <p>10 Q. Oh, I'm sorry. What were you saying?</p> <p>11 Restate that.</p> <p>12 A. After the case was assigned to my</p> <p>13 investigator, he in turn asked the</p> <p>14 attorney general's office had they</p> <p>15 performed any kind of investigation on</p> <p>16 this complaint. And they had did the</p> <p>17 investigation work. So he in turn</p> <p>18 asked them could he get a copy of their</p> <p>19 report as to what they had found or</p> <p>20 discovered. And once he got a copy of</p> <p>21 their report, that's when Ms. Horton's</p> <p>22 name was mentioned and Investigator</p> <p>23 Roeder, where they had did their</p>

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<p>1 investigative work regarding the</p> <p>2 complaint against National Seating &</p> <p>3 Mobility, and that's where I learned of</p> <p>4 the name Elizabeth Horton.</p> <p>5 Q. Oh, okay. Did you speak with her</p> <p>6 directly?</p> <p>7 A. No.</p> <p>8 Q. So she didn't make any statements to</p> <p>9 you regarding any alleged fraudulent</p> <p>10 activity going on at National Seating &</p> <p>11 Mobility?</p> <p>12 A. No. No, ma'am. I'm sorry.</p> <p>13 Q. You assigned this case to Investigator</p> <p>14 Green?</p> <p>15 A. Yes, ma'am.</p> <p>16 Q. And you read his results from his</p> <p>17 investigation?</p> <p>18 A. Yes, I did.</p> <p>19 Q. Let me show you Plaintiff's Exhibit #1,</p> <p>20 Bates Drab 001 through 006. If you</p> <p>21 would review that document for me,</p> <p>22 please, Mr. Johnson.</p> <p>23 A. Yes, I am familiar with this report,</p>	<p>1 Seating & Mobility.</p> <p>2 Q. Yes, sir. Was that the one where</p> <p>3 Elizabeth was arrested?</p> <p>4 A. No, ma'am. I don't think so.</p> <p>5 Q. You say -- was there another file?</p> <p>6 A. It should be, yes.</p> <p>7 Q. How many complaints have you</p> <p>8 investigated or your office have</p> <p>9 investigated against National Seating &</p> <p>10 Mobility for alleged fraudulent</p> <p>11 activity against Medicaid?</p> <p>12 A. Without having the case file on hand,</p> <p>13 I'm going to say two. And they were</p> <p>14 around the same time.</p> <p>15 Q. Yes, sir.</p> <p>16 A. Yes.</p> <p>17 Q. Now, you didn't have any hands-on in</p> <p>18 the investigation. You just basically</p> <p>19 assigned --</p> <p>20 A. Assigned.</p> <p>21 Q. -- it out?</p> <p>22 A. That's correct.</p> <p>23 Q. Did you remember reading in the case</p>
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<p>1 yes.</p> <p>2 Q. Yes, sir. And if you would, just turn</p> <p>3 over to the front page of the report</p> <p>4 for me, please, the cover.</p> <p>5 (Witness complied.)</p> <p>6 Q. Okay. And this is a continuation of</p> <p>7 Case No. 8-04-0150. Am I correct?</p> <p>8 A. Yes, ma'am.</p> <p>9 Q. Now, what was going on before this</p> <p>10 complaint?</p> <p>11 MR. STEWART: Object to</p> <p>12 form.</p> <p>13 A. I don't have the case file on hand, but</p> <p>14 there was another case file involving</p> <p>15 National Seating & Mobility --</p> <p>16 Q. Yes, sir.</p> <p>17 A. -- regarding some Medicaid issues. And</p> <p>18 after this complaint -- the anonymous</p> <p>19 complaint came in, that's when we put</p> <p>20 in the continuing of 8-04-105. So --</p> <p>21 Q. Okay.</p> <p>22 A. -- we had -- I want to say we had just</p> <p>23 closed off a case file on National</p>	<p>1 file statements by Don Williams that</p> <p>2 Felecia Barrow and Elizabeth Horton</p> <p>3 were friends?</p> <p>4 A. I don't recall. I don't remember.</p> <p>5 Q. And do you know Felecia Barrow?</p> <p>6 A. Yes, ma'am.</p> <p>7 Q. Did you have the opportunity to</p> <p>8 interview her in her office?</p> <p>9 A. No, ma'am. I talked with her in the</p> <p>10 office. She was interviewed by the</p> <p>11 attorney general's office, and I was</p> <p>12 present during the interview; but I</p> <p>13 didn't interview her. I was just</p> <p>14 sitting there, observing the interview.</p> <p>15 Q. And were you invited in by the attorney</p> <p>16 general's office?</p> <p>17 A. No. By Ms. Barrow.</p> <p>18 Q. Oh, okay. And what, if anything, was</p> <p>19 stated during that meeting?</p> <p>20 MR. STEWART: Object to the</p> <p>21 form.</p> <p>22 A. Well, it would be hard to say because I</p> <p>23 don't remember all the exact details.</p>

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<p>1 They was asking her questions on the</p> <p>2 line as what information did she</p> <p>3 receive regarding National Seating &</p> <p>4 Mobility and -- regarding them not</p> <p>5 having provided services or supplies to</p> <p>6 Medicaid recipients regarding</p> <p>7 wheelchairs. So all the exact details,</p> <p>8 I don't remember. I don't recall.</p> <p>9 Q. Do you remember Felecia saying anything</p> <p>10 about she had documentation to support</p> <p>11 the fact that they did have missing</p> <p>12 dates on some of their documents?</p> <p>13 A. I would have to say yes.</p> <p>14 MR. STEWART: Object to</p> <p>15 form.</p> <p>16 A. Yes, ma'am.</p> <p>17 Q. Do you remember her discussing</p> <p>18 infractions at National Seating &</p> <p>19 Mobility submitted to her department?</p> <p>20 MR. STEWART: Object to</p> <p>21 form.</p> <p>22 A. I'm trying to understand the question.</p> <p>23 Q. Such as missing dates on forms.</p>	<p>1 MR. WALKER: Object to the</p> <p>2 form.</p> <p>3 Q. Is that correct?</p> <p>4 A. That's correct.</p> <p>5 Q. But you also heard Felecia Barrow,</p> <p>6 witness her saying that she had in fact</p> <p>7 viewed documents that were infractions.</p> <p>8 MR. STEWART: Object to the</p> <p>9 form.</p> <p>10 MR. WALKER: Object to form.</p> <p>11 Q. Am I correct?</p> <p>12 A. That's correct.</p> <p>13 Q. Is there a possibility that Mr. Green's</p> <p>14 time frame in putting the NSM on notice</p> <p>15 that he wanted to review certain files,</p> <p>16 is there a possibility that infractions</p> <p>17 could have been corrected?</p> <p>18 MR. WALKER: Object to the</p> <p>19 form.</p> <p>20 MR. STEWART: Object to the</p> <p>21 form.</p> <p>22 A. I don't know.</p> <p>23 Q. All right. Do you require your</p>
Page 26	Page 28
<p>1 MR. STEWART: Same</p> <p>2 objection.</p> <p>3 A. Yes.</p> <p>4 Q. What, if anything, did she say?</p> <p>5 A. Again, I would have to say something on</p> <p>6 the line where she would say they</p> <p>7 received forms or documentation from</p> <p>8 the company where certain dates were</p> <p>9 not on the form for -- I guess missing</p> <p>10 dates or . . .</p> <p>11 Q. And was that part of Elizabeth Horton's</p> <p>12 complaint as you understood it?</p> <p>13 A. Yes, ma'am. I would say so, yes.</p> <p>14 Q. And did Ms. Barrow say that she had</p> <p>15 personal knowledge or just received</p> <p>16 information in her office of the same?</p> <p>17 A. Yes.</p> <p>18 Q. Investigator Green did the</p> <p>19 investigation at the office of National</p> <p>20 Seating & Mobility here in Montgomery.</p> <p>21 You reviewed his complaint where you</p> <p>22 said he didn't find any criminal</p> <p>23 activity.</p>	<p>1 investigators to make an impromptu</p> <p>2 visit on sites that are under</p> <p>3 investigation?</p> <p>4 A. It's not required but we do do</p> <p>5 impromptu visits on providers, yes,</p> <p>6 they do.</p> <p>7 Q. And do you require them on that</p> <p>8 impromptu visit to immediately pull</p> <p>9 files for examinations?</p> <p>10 A. They do. Yes, we do pull files for</p> <p>11 examination also, yes.</p> <p>12 Q. Do you know why it was not done in this</p> <p>13 case?</p> <p>14 MR. STEWART: Object to the</p> <p>15 form.</p> <p>16 A. Okay. His report here indicates that</p> <p>17 he did review different files.</p> <p>18 Q. Yes, sir.</p> <p>19 A. And your question is why he didn't</p> <p>20 review file on --</p> <p>21 Q. That were impromptu.</p> <p>22 MR. STEWART: Object to the</p> <p>23 form.</p>

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<p>1 MR. WALKER: Same objection.</p> <p>2 A. I don't know, because he's assigned a</p> <p>3 case and he works the case, I guess,</p> <p>4 according to how he feel the case is</p> <p>5 leading towards a conclusion as to find</p> <p>6 out if the allegation is either true or</p> <p>7 false.</p> <p>8 Q. Is it fair to say if you put someone on</p> <p>9 notice on, let's just say -- today is</p> <p>10 January 30th.</p> <p>11 A. Yes, ma'am.</p> <p>12 Q. And you tell them, I'll need these</p> <p>13 files on February 15th. Is it fair to</p> <p>14 say that they could correct any</p> <p>15 infractions --</p> <p>16 MR. STEWART: Object to the</p> <p>17 form.</p> <p>18 Q. -- in those files within that period of</p> <p>19 time?</p> <p>20 MR. STEWART: Same</p> <p>21 objection.</p> <p>22 A. I'll say yes.</p> <p>23 Q. And is it fair to say that if any</p>	<p>1 was July 20th, 2004. The PA request</p> <p>2 was submitted in February 2005. A</p> <p>3 subsequent fax was received from Gerry</p> <p>4 Rodgers indicating that the assessment</p> <p>5 was reviewed on 2/15/05 and was still</p> <p>6 okay. I conferred with Teresa and</p> <p>7 Debbie and thought that we needed</p> <p>8 updated clinic notes telling the</p> <p>9 current condition of the clinic. On</p> <p>10 another client, both the physician</p> <p>11 notes and medical necessity and the PT</p> <p>12 assessment were lacking dates.</p> <p>13 Q. So when they failed to put dates on the</p> <p>14 assessments, doesn't that alter the</p> <p>15 system?</p> <p>16 MR. STEWART: Object to the</p> <p>17 form.</p> <p>18 MR. WALKER: Object to the</p> <p>19 form.</p> <p>20 Q. Requirements.</p> <p>21 A. Yes, ma'am.</p> <p>22 Q. So that's actually where the fraud</p> <p>23 occurred. Am I correct?</p>
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<p>1 corrections are made, then the</p> <p>2 investigator has no other choice but to</p> <p>3 conclude no criminal activity?</p> <p>4 MR. WALKER: Objection to</p> <p>5 form.</p> <p>6 MR. STEWART: Object to</p> <p>7 form.</p> <p>8 A. Yes, ma'am.</p> <p>9 Q. All right. Let me show you Plaintiff's</p> <p>10 Exhibit #3, Bates Drab Page 14. If you</p> <p>11 would, let us look at Paragraph No. 2.</p> <p>12 Could you read that for the record,</p> <p>13 please.</p> <p>14 A. Teresa Surles, RN, questioned the</p> <p>15 assessment and was told by Gerry</p> <p>16 Rodgers to get the dates from Emily,</p> <p>17 National Seating. I informed Teresa</p> <p>18 that the clinic dates should be kept at</p> <p>19 CRS where the assessment was conducted.</p> <p>20 Teresa, under my direction, contacted</p> <p>21 CRS to get the clinic dates instead of</p> <p>22 Emily. Jackie, CRS, informed Teresa</p> <p>23 that the date of the clinic appointment</p>	<p>1 MR. STEWART: Object to the</p> <p>2 form.</p> <p>3 MR. WALKER: Object to the</p> <p>4 form.</p> <p>5 A. Yes, ma'am. If I'm following you, yes,</p> <p>6 ma'am.</p> <p>7 Q. So your answer is yes, that's where the</p> <p>8 fraud occurred?</p> <p>9 MR. STEWART: Object to the</p> <p>10 form.</p> <p>11 MR. WALKER: Object to the</p> <p>12 form.</p> <p>13 A. You saying where the fraud occurs</p> <p>14 so . . .</p> <p>15 Q. Yes, sir. Where you leave dates open.</p> <p>16 MR. STEWART: Object to the</p> <p>17 form.</p> <p>18 MR. WALKER: Same objection.</p> <p>19 Q. In other words, isn't there a</p> <p>20 particular time frame when recipients</p> <p>21 apply and then there's a certain time</p> <p>22 frame that it has to be completed?</p> <p>23 MR. WALKER: Object to the</p>

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<p>1 form.</p> <p>2 MR. STEWART: Object to the</p> <p>3 form.</p> <p>4 A. According to the program, yes. But I'm</p> <p>5 not familiar with this PA program, so I</p> <p>6 would say --</p> <p>7 Q. Sure.</p> <p>8 A. They have guidelines to follow, yes.</p> <p>9 Q. Yeah, sure. And if placing dates on</p> <p>10 these documents are the trail by which</p> <p>11 you see whether or not these vendors</p> <p>12 are in compliance with the Medicaid</p> <p>13 regulations, failure of the adequate</p> <p>14 information would actually alter the</p> <p>15 approvals. Am I correct?</p> <p>16 MR. WALKER: Object to the</p> <p>17 form.</p> <p>18 MR. STEWART: Object to the</p> <p>19 form.</p> <p>20 A. I'm following your comment, but I'm</p> <p>21 trying to see how can I answer that</p> <p>22 question. You made a comment, so I'm</p> <p>23 trying to put it in question form for</p>	<p>1 A. I'll say yes.</p> <p>2 MR. STEWART: Object to the</p> <p>3 form.</p> <p>4 MR. WALKER: Object to the</p> <p>5 form.</p> <p>6 A. That's correct.</p> <p>7 Q. And then from this document, it appears</p> <p>8 that the Medicaid Agency also needs</p> <p>9 dates as to when that recipient is</p> <p>10 serviced by the physical therapist. Am</p> <p>11 I correct?</p> <p>12 A. That's correct.</p> <p>13 Q. But this document is suggesting that</p> <p>14 dates were in fact missing. Am I</p> <p>15 correct?</p> <p>16 A. Correct also.</p> <p>17 MR. STEWART: Object to the</p> <p>18 form.</p> <p>19 Q. And was that one of the complaints that</p> <p>20 Elizabeth Horton had?</p> <p>21 MR. STEWART: Object to the</p> <p>22 form.</p> <p>23 A. Yes, ma'am.</p>
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<p>1 me to answer it.</p> <p>2 Q. Okay. Just tell me what -- what do you</p> <p>3 understand about the dates on these</p> <p>4 documents and the importance of them?</p> <p>5 MR. STEWART: Object to the</p> <p>6 form.</p> <p>7 A. Again, I'll say I'm not --</p> <p>8 MR. WALKER: Object to the</p> <p>9 form.</p> <p>10 A. -- familiar with that program. If the</p> <p>11 dates are missing on the form or</p> <p>12 documents, the program requires</p> <p>13 providers or vendors to have dates on</p> <p>14 the assessment. Now, what is -- did</p> <p>15 you say is that considered fraud or</p> <p>16 misuse/abuse with the date missing,</p> <p>17 that I don't know.</p> <p>18 Q. All right. But the Medicaid Agency</p> <p>19 does not have or the prior approval</p> <p>20 department does not have any way of</p> <p>21 verifying when that recipient first</p> <p>22 requests service unless a date is on</p> <p>23 documents; right?</p>	<p>1 Q. So is it fair to say that this</p> <p>2 assessment by Teresa Surles questioning</p> <p>3 the assessments and missing dates,</p> <p>4 would that pretty much be lining up</p> <p>5 with the complaint that Elizabeth</p> <p>6 Horton had?</p> <p>7 MR. STEWART: Object to the</p> <p>8 form.</p> <p>9 A. Yes, ma'am.</p> <p>10 MR. WALKER: Object to the</p> <p>11 form.</p> <p>12 Q. Was that a yes, Mr. Johnson?</p> <p>13 MR. STEWART: Object to the</p> <p>14 form.</p> <p>15 A. Yes.</p> <p>16 Q. All right. Now, if we can read the</p> <p>17 next paragraph for the record.</p> <p>18 A. Teresa came across another assessment</p> <p>19 completed by M. Maddox and placed a</p> <p>20 call to the PT to find out why the</p> <p>21 dates was missing. The PT replied,</p> <p>22 Maybe we're not supposed to do this,</p> <p>23 pause, but I never put dates on the</p>

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<p>1 assessment or the prescription because</p> <p>2 it messes up the vendors, like we're on</p> <p>3 a time clock. It is odd that the</p> <p>4 assessments that Mr. Maddox has done</p> <p>5 for other vendors have a date on them,</p> <p>6 but the ones done for National Seating</p> <p>7 do not have dates. This was the same</p> <p>8 information that was reported by former</p> <p>9 National Seating employee, Elizabeth</p> <p>10 Horton.</p> <p>11 Q. Now, looking at this document, you have</p> <p>12 the same thing that Elizabeth Horton</p> <p>13 complained of. You have a Medicaid</p> <p>14 Agency employee that's firsthand</p> <p>15 witness to it. Am I correct?</p> <p>16 MR. STEWART: Object to</p> <p>17 form.</p> <p>18 MR. WALKER: Object to form.</p> <p>19 A. That's correct.</p> <p>20 Q. All right. Just based on this memo.</p> <p>21 A. Yes.</p> <p>22 Q. And this memo is written by whom?</p> <p>23 A. Felecia Barrow.</p>	<p>1 MR. WALKER: Same.</p> <p>2 A. No, ma'am.</p> <p>3 Q. Does anybody know what he meant when he</p> <p>4 said, according to Teresa, that I never</p> <p>5 put dates on the assessment?</p> <p>6 A. No, I don't know.</p> <p>7 Q. Did anybody find out what he meant when</p> <p>8 he said the prescriptions -- or the</p> <p>9 prescriptions because it messes up the</p> <p>10 vendor?</p> <p>11 MR. WALKER: Object to the</p> <p>12 form.</p> <p>13 MR. STEWART: Same.</p> <p>14 A. And the question is?</p> <p>15 Q. Did anybody find out what he meant by</p> <p>16 that?</p> <p>17 MR. WALKER: Same.</p> <p>18 MR. STEWART: Same</p> <p>19 objection.</p> <p>20 A. No, ma'am.</p> <p>21 Q. Now, I'm just asking you as an</p> <p>22 investigator. If you got National</p> <p>23 Seating & Mobility know that they need</p>
Page 38	Page 40
<p>1 Q. Felecia Barrow. Now, did you see in</p> <p>2 any of the investigation that was</p> <p>3 conducted by Mr. Green any conversation</p> <p>4 he may have had with this registered</p> <p>5 nurse, Teresa Surles, regarding this</p> <p>6 memo?</p> <p>7 A. No, ma'am.</p> <p>8 Q. Mr. Green testified that he reviewed</p> <p>9 their file. He did tell us that this</p> <p>10 memo was actually -- it predated his</p> <p>11 employment with the Medicaid Agency.</p> <p>12 But he said he reviewed the file. Do</p> <p>13 you know why Teresa Surles was not</p> <p>14 contacted?</p> <p>15 A. By my investigator or --</p> <p>16 Q. That is correct.</p> <p>17 A. -- by whom?</p> <p>18 Q. By the investigator.</p> <p>19 A. No, ma'am, I don't know.</p> <p>20 Q. Do you know why the physical therapist</p> <p>21 was not contacted?</p> <p>22 MR. STEWART: Object to the</p> <p>23 form.</p>	<p>1 dates, then you have a physical</p> <p>2 therapist consistently submitting</p> <p>3 assessments or prescriptions without</p> <p>4 dates, then you have your Medicaid</p> <p>5 employee, Felecia Barrow, receiving</p> <p>6 information, how can any report that</p> <p>7 Felecia Barrow gave be fraudulent?</p> <p>8 MR. STEWART: Object to</p> <p>9 form.</p> <p>10 MR. WALKER: Object to form.</p> <p>11 Q. I mean not Felecia but Elizabeth Horton</p> <p>12 gave be fraudulent?</p> <p>13 MR. STEWART: Same</p> <p>14 objection.</p> <p>15 MR. WALLACE: Objection to</p> <p>16 form.</p> <p>17 MR. WALKER: Object to the</p> <p>18 form.</p> <p>19 A. It can't be.</p> <p>20 Q. So doesn't this suggest that there was</p> <p>21 some kind of evidence or there was</p> <p>22 something going on at National</p> <p>23 Seating & Mobility?</p>

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<p>1 MR. STEWART: Object to the</p> <p>2 form.</p> <p>3 A. Yes, ma'am.</p> <p>4 MR. WALKER: Object to the</p> <p>5 form.</p> <p>6 A. Yes, ma'am.</p> <p>7 Q. But you all just were not able to prove</p> <p>8 it through your investigation. Am I</p> <p>9 correct?</p> <p>10 MR. STEWART: Object to the</p> <p>11 form.</p> <p>12 MR. WALKER: Object to the</p> <p>13 form.</p> <p>14 A. Again, with this letter here and again</p> <p>15 the complaint that Mr. Green had also,</p> <p>16 there was several other concerns with</p> <p>17 National Seating & Mobility so . . .</p> <p>18 Q. Now, I'm just asking, have you ever</p> <p>19 worked in law enforcement?</p> <p>20 A. Yes, ma'am.</p> <p>21 Q. Yes. Prior to your position with the</p> <p>22 Medicaid Agency.</p> <p>23 A. Corrections.</p>	<p>1 MR. STEWART: Sorry.</p> <p>2 Q. -- just you as an investigator?</p> <p>3 MR. WALKER: Sorry. Object</p> <p>4 to form.</p> <p>5 MR. STEWART: Object to the</p> <p>6 form.</p> <p>7 A. No -- no difference.</p> <p>8 Q. No difference?</p> <p>9 A. No.</p> <p>10 Q. So she said the same thing as Felecia</p> <p>11 Barrow?</p> <p>12 MR. STEWART: Object to the</p> <p>13 form.</p> <p>14 A. Yes, ma'am.</p> <p>15 MR. WALKER: Object to the</p> <p>16 form.</p> <p>17 Q. She said pretty much the same thing as</p> <p>18 Teresa Surles?</p> <p>19 MR. STEWART: Object to the</p> <p>20 form.</p> <p>21 A. I would say yes.</p> <p>22 MR. WALKER: Object to the</p> <p>23 form.</p>
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<p>1 Q. Department of corrections. Okay.</p> <p>2 A. Yes, ma'am.</p> <p>3 Q. Now, I got to ask this question now.</p> <p>4 You got the employee from the Medicaid</p> <p>5 Agency saying she sees something</p> <p>6 firsthand.</p> <p>7 A. Okay.</p> <p>8 Q. Then you have Teresa Surles who's also</p> <p>9 talked with somebody; she's a</p> <p>10 registered nurse.</p> <p>11 A. Yes, ma'am.</p> <p>12 Q. And then now you have an anonymous</p> <p>13 complainant saying the same thing:</p> <p>14 Something is wrong; they're not putting</p> <p>15 dates on forms or -- and then you also</p> <p>16 have Elizabeth Horton saying the same</p> <p>17 thing. I got to ask you this question.</p> <p>18 What was different about Elizabeth</p> <p>19 Horton's complaint --</p> <p>20 MR. STEWART: Object to the</p> <p>21 form.</p> <p>22 MR. WALKER: Object to the</p> <p>23 form.</p>	<p>1 Q. And then if in fact the physical</p> <p>2 therapist said what he said, then</p> <p>3 Elizabeth said the same thing he said.</p> <p>4 Am I correct?</p> <p>5 MR. STEWART: Object to the</p> <p>6 form.</p> <p>7 MR. WALKER: Object to the</p> <p>8 form.</p> <p>9 A. Yes, ma'am.</p> <p>10 Q. Now, your anonymous caller on, yes,</p> <p>11 Plaintiff's Exhibit #1 said the same</p> <p>12 thing -- am I correct?</p> <p>13 MR. STEWART: Object to the</p> <p>14 form.</p> <p>15 MR. WALKER: Object to the</p> <p>16 form.</p> <p>17 Q. -- as Elizabeth Horton?</p> <p>18 MR. STEWART: Same</p> <p>19 objection.</p> <p>20 MR. WALKER: Same objection.</p> <p>21 A. It's somewhat similar, yes.</p> <p>22 Q. Yes, sir. Similar complaint; right?</p> <p>23 A. Yes, ma'am.</p>

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<p>1 MR. STEWART: Object to the</p> <p>2 form.</p> <p>3 Q. Can you tell me or do you have any</p> <p>4 suggestion why Elizabeth out of</p> <p>5 everybody that said the same thing, why</p> <p>6 was she the one that was arrested?</p> <p>7 MR. WALLACE: Object to the</p> <p>8 form. You're misstating</p> <p>9 the evidence.</p> <p>10 MR. WALKER: Object to the</p> <p>11 form.</p> <p>12 MR. STEWART: Object to the</p> <p>13 form.</p> <p>14 A. I understand -- I don't know.</p> <p>15 Q. Mr. Johnson, approximately how many</p> <p>16 complaints do you all handle where</p> <p>17 people are calling either anonymously</p> <p>18 or identify themselves, you know,</p> <p>19 calling in fraud against the Medicaid</p> <p>20 Agency?</p> <p>21 MR. WALKER: Object to the</p> <p>22 form.</p> <p>23 A. It varies on a daily basis, anywhere</p>	<p>1 able to sustain the complaint?</p> <p>2 A. No, ma'am.</p> <p>3 Q. Is Elizabeth Horton the first person</p> <p>4 that you've known to be arrested that's</p> <p>5 been a complainant?</p> <p>6 A. Yes, ma'am.</p> <p>7 Q. Do you know why she was singled out?</p> <p>8 A. No, ma'am, I do not.</p> <p>9 Q. Anybody ever told you anything as to</p> <p>10 why?</p> <p>11 A. From reading the report that was done</p> <p>12 by the other agency, it says she</p> <p>13 provided false information to a law</p> <p>14 enforcement officer. So that's the --</p> <p>15 Q. And what was that false information?</p> <p>16 A. Again, I don't know.</p> <p>17 Q. Have you ever seen any reports that</p> <p>18 Elizabeth filed?</p> <p>19 A. No, ma'am.</p> <p>20 Q. Have you read a statement that she</p> <p>21 gave?</p> <p>22 A. No, ma'am.</p> <p>23 Q. You just read what everybody else said.</p>
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<p>1 from twenty-five to thirty-five calls.</p> <p>2 Q. So if we take twenty-five to</p> <p>3 thirty-five calls a day --</p> <p>4 A. Okay.</p> <p>5 Q. -- and then there's on the average</p> <p>6 thirty, thirty-one days in a month --</p> <p>7 A. Yes, ma'am.</p> <p>8 Q. -- well, let's just go --</p> <p>9 MS. NICKSON: Now, you said</p> <p>10 we're not good with</p> <p>11 math. Anybody got a</p> <p>12 calculator?</p> <p>13 Q. So in a week, that's about a hundred</p> <p>14 and fifty-five calls?</p> <p>15 A. Yes, ma'am.</p> <p>16 Q. So over five hundred calls a month?</p> <p>17 A. Okay.</p> <p>18 Q. Approximately. And we're just dealing</p> <p>19 with approximation.</p> <p>20 A. Yeah.</p> <p>21 Q. Have you ever known anybody to be</p> <p>22 arrested that has been a complainant</p> <p>23 and the investigation have not been</p>	<p>1 Am I correct?</p> <p>2 A. That's correct.</p> <p>3 MR. STEWART: Object to the</p> <p>4 form.</p> <p>5 MR. WALKER: Same objection.</p> <p>6 Q. Do you know what the arrest was based</p> <p>7 on other than somebody saying that she</p> <p>8 made a false statement?</p> <p>9 MR. STEWART: Object to the</p> <p>10 form.</p> <p>11 A. Again, no, ma'am, I do not.</p> <p>12 Q. Did you heard her voice on a tape</p> <p>13 recording making a statement?</p> <p>14 A. No.</p> <p>15 Q. Were you there at the criminal trial of</p> <p>16 Elizabeth Horton?</p> <p>17 A. Yes, ma'am.</p> <p>18 Q. And how did the Court find her?</p> <p>19 A. Not guilty.</p> <p>20 MR. WALKER: Object to the</p> <p>21 form.</p> <p>22 A. I guess the case was thrown out.</p> <p>23 Q. Not guilty?</p>

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1 A. Yes.	1 Investigator Green as to what was not
2 Q. What, if anything, was said at the	2 being done. And she was asked
3 bench?	3 questions by the attorney and the
4 MR. STEWART: Object to the	4 prosecutor asked what transpired with
5 form.	5 that complaint. Her response to the
6 MR. WALKER: Object to the	6 question that was asked, I can't recall
7 form.	7 all the exact wordage so . . .
8 A. I don't recall.	8 Q. All right. Do you remember her making
9 Q. Who was there to testify?	9 a statement that Elizabeth Horton never
10 A. Ms. Horton, Ms. Felecia Barrow, and the	10 said that people did not receive their
11 staff from the attorney general's	11 wheelchairs?
12 office -- Bruce Lieberman, Gerald	12 MR. STEWART: Object to the
13 Shockley, and Mike Roeder.	13 form.
14 MR. STEWART: Who before	14 MR. WALKER: Object to the
15 Gerald Shockley?	15 form.
16 THE WITNESS: Bruce	16 A. I don't recall that, so . . .
17 Lieberman.	17 Q. What, if anything, did Gerry Shockley
18 MS. NICKSON: He was the	18 say?
19 prosecutor.	19 MR. STEWART: Same
20 Q. Was he the prosecutor in the case?	20 objection.
21 A. Yes.	21 A. Again, I don't recall all the details.
22 MR. STEWART: And the last	22 He just made his statements regarding
23 name you mentioned?	23 his report that he had against
Page 50	Page 52
1 THE WITNESS: Gerald	1 Ms. Horton. And I'm pretty sure the
2 Shockley and Mike	2 questions was asked of him by attorney
3 Roeder.	3 and prosecutor. I don't recall all the
4 MR. STEWART: Mike Roeder.	4 questions that was asked to him.
5 Thank you.	5 Q. Do you remember any discussion at the
6 Q. All right. Did you get to hear the	6 bench that Elizabeth had been
7 testimony of these people?	7 terminated from National Seating &
8 A. I wasn't -- yes, I did. Yes.	8 Mobility?
9 Q. And what did Felecia Barrow say?	9 MR. WALLACE: Objection.
10 MR. STEWART: Object to the	10 This is not --
11 form.	11 A. Yes, I do.
12 MR. WALKER: Same objection.	12 MR. WALLACE: This question
13 A. Again, I don't recall all the exact	13 is not calculated to
14 wordage so --	14 lead to discoverable
15 Q. Okay. Best you can remember.	15 evidence.
16 MR. STEWART: Same	16 MR. WALKER: Objection to
17 objection.	17 form.
18 MR. WALKER: Same objection.	18 MR. STEWART: Object to the
19 A. She basically made the statement to the	19 form.
20 fact that she received a call -- a	20 A. Yes, ma'am.
21 complaint regarding National Seating &	21 Q. And do you have any documentation,
22 Mobility regarding the complaint that	22 anything in your investigative file,
23 was -- we have on file from	23 that would suggest that she was

13 (Pages 49 to 52)

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<p>1 employed by National Seating &</p> <p>2 Mobility?</p> <p>3 MR. STEWART: Object to the</p> <p>4 form.</p> <p>5 A. I'm trying to think as -- I would say I</p> <p>6 don't recall, so I don't -- I don't</p> <p>7 know.</p> <p>8 Q. All right. But you've not read</p> <p>9 anything or seen any documents where</p> <p>10 National Seating & Mobility actually</p> <p>11 terminated Elizabeth --</p> <p>12 A. No, I have not.</p> <p>13 Q. -- have you? Okay. All right. Did</p> <p>14 you have the opportunity to speak with</p> <p>15 Ms. Horton on that day of trial?</p> <p>16 A. Afterwards, yes.</p> <p>17 Q. Did she ever tell you that she never</p> <p>18 met Gerry Shockley?</p> <p>19 A. I don't recall, no.</p> <p>20 Q. Did Gerry Shockley ever state that he</p> <p>21 had met Elizabeth Horton?</p> <p>22 A. Not to me.</p> <p>23 Q. Do you know whether or not he met her?</p>	<p>1 question.</p> <p>2 Q. So when did you all begin your</p> <p>3 investigation?</p> <p>4 A. According to Investigator Green's</p> <p>5 report, it would have to be May 19,</p> <p>6 '04.</p> <p>7 Q. Okay. May 19th, '04? Okay. Is that</p> <p>8 when the complaint --</p> <p>9 A. Yes, the complaint came in, yes.</p> <p>10 Q. -- was lodged, May 19th, '04? Okay.</p> <p>11 Have you known of people to, in</p> <p>12 businesses, to get angry when</p> <p>13 complaints are filed against them?</p> <p>14 MR. STEWART: Object to the</p> <p>15 form.</p> <p>16 A. I can say it -- it happens. But no,</p> <p>17 I -- I haven't encountered that.</p> <p>18 Q. All right. You didn't talk with Don</p> <p>19 Williams?</p> <p>20 A. No, ma'am.</p> <p>21 Q. You didn't speak with anybody directly</p> <p>22 You just read --</p> <p>23 A. The report.</p>
Page 54	Page 56
<p>1 A. No, I don't know.</p> <p>2 Q. All right. Do you know where Elizabeth</p> <p>3 was working at the time of her arrest?</p> <p>4 A. From the report done by Investigator</p> <p>5 Green, yes, ma'am.</p> <p>6 Q. Where was she working?</p> <p>7 A. At the Hyundai plant.</p> <p>8 Q. And, now, as a matter of fact, it was</p> <p>9 nearly eleven months between the time</p> <p>10 of her employment with National</p> <p>11 Seating & Mobility to the time that the</p> <p>12 investigation began. Am I correct?</p> <p>13 MR. STEWART: Object to</p> <p>14 form.</p> <p>15 A. You say eleven months from what time</p> <p>16 frame?</p> <p>17 Q. Okay. Elizabeth was employed for</p> <p>18 National Seating & Mobility, the</p> <p>19 documents suggest, from April '04 to</p> <p>20 June '04.</p> <p>21 A. Okay.</p> <p>22 MR. STEWART: Object to the</p> <p>23 form, if that's a</p>	<p>1 Q. -- Investigator Green's report?</p> <p>2 A. Yes, ma'am.</p> <p>3 Q. All right. Investigator Green said</p> <p>4 that he -- and I'm going to show you</p> <p>5 Plaintiff's Exhibit #2. He said that</p> <p>6 that's not the list of recipients that</p> <p>7 he showed to Elizabeth. Did you look</p> <p>8 at a list of recipients where Elizabeth</p> <p>9 identified twenty-three people that she</p> <p>10 may have remembered getting service</p> <p>11 during the time of her employment?</p> <p>12 A. Okay. And you're saying did I see this</p> <p>13 list?</p> <p>14 Q. Yes, sir. Have you ever seen a list?</p> <p>15 A. On the report that Investigator Green</p> <p>16 has in his case file.</p> <p>17 Q. He did?</p> <p>18 A. (Witness nodded.)</p> <p>19 Q. Okay. He indicated that she had</p> <p>20 initialled along the side. Do you</p> <p>21 remember seeing her initials?</p> <p>22 A. No, ma'am.</p> <p>23 Q. All right. Do you all have guidelines,</p>

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<p>1 Mr. Johnson, if someone is</p> <p>2 intentionally making a false report, do</p> <p>3 you have guidelines by which you would</p> <p>4 suggest prosecution of that person?</p> <p>5 A. No, ma'am.</p> <p>6 Q. Did you ever hear the name Chaseley</p> <p>7 Weeks?</p> <p>8 A. Yes.</p> <p>9 Q. Do you know whether anybody from the</p> <p>10 attorney general's office attempted to</p> <p>11 contact her?</p> <p>12 A. I don't know.</p> <p>13 Q. Did you ever read a statement or</p> <p>14 anything from her?</p> <p>15 A. No, ma'am.</p> <p>16 Q. Do you know whether or not Elizabeth</p> <p>17 and Felecia were friends?</p> <p>18 A. Again, I don't know.</p> <p>19 Q. Did you ever ask Felecia?</p> <p>20 A. No.</p> <p>21 Q. Let's see.</p> <p>22 (Brief pause)</p> <p>23 Q. Do you recall Mr. Green, Investigator</p>	<p>1 mistaken.</p> <p>2 A. Roeder.</p> <p>3 Q. Yeah, Roeder. Is it foreseeable that</p> <p>4 if she was shown this list nearly</p> <p>5 eleven months later, that she could go</p> <p>6 through there and identify --</p> <p>7 MR. WALLACE: Object to the</p> <p>8 form.</p> <p>9 Q. -- recipients?</p> <p>10 MR. WALLACE: You're calling</p> <p>11 for him to speculate.</p> <p>12 Rephrase your question.</p> <p>13 Q. Is it foreseeable that a witness --</p> <p>14 MR. WALLACE: Object to the</p> <p>15 form.</p> <p>16 Q. -- just in your mind --</p> <p>17 MS. NICKSON: I'm asking an</p> <p>18 expert.</p> <p>19 MR. WALLACE: You're</p> <p>20 requesting him to</p> <p>21 speculate. He can only</p> <p>22 testify as to things to</p> <p>23 which he has personal</p>
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<p>1 Green, actually stating that Elizabeth</p> <p>2 never identified any of those</p> <p>3 recipients as to missing wheelchairs or</p> <p>4 fraud being committed against those</p> <p>5 exact recipients that she identified on</p> <p>6 the ledger that he showed her?</p> <p>7 A. The ledger or the names that</p> <p>8 Investigator Green showed regarding</p> <p>9 those twenty-seven or twenty-three</p> <p>10 names?</p> <p>11 Q. Yes, sir.</p> <p>12 A. From talking with him, those are the</p> <p>13 names that he was saying Ms. Horton</p> <p>14 just remembered while working at</p> <p>15 National Seating & Mobility.</p> <p>16 Q. Okay. But not necessarily that</p> <p>17 infractions had incurred --</p> <p>18 A. No.</p> <p>19 Q. -- had occurred with them? Let me ask</p> <p>20 you this. Elizabeth left National</p> <p>21 Seating & Mobility June '04. April</p> <p>22 '05, she was interviewed by the</p> <p>23 investigator, Roeder, if I'm not</p>	<p>1 knowledge.</p> <p>2 MS. NICKSON: Okay. We'll</p> <p>3 straighten out if</p> <p>4 objections later.</p> <p>5 Q. But just in your course of</p> <p>6 investigation, you're dealing with a</p> <p>7 prior employee -- and this is your</p> <p>8 experience as an investigator. You're</p> <p>9 dealing with an employee who left a</p> <p>10 company nearly eleven months ago. Is</p> <p>11 it foreseeable that that person could</p> <p>12 identify --</p> <p>13 MR. WALLACE: Object to the</p> <p>14 form.</p> <p>15 Q. -- thirty-seven people that had a fraud</p> <p>16 activity going on in their files at the</p> <p>17 time of their employment?</p> <p>18 MR. STEWART: Object to</p> <p>19 form.</p> <p>20 MR. WALKER: Object to form.</p> <p>21 A. Again, that I don't know. But to</p> <p>22 say --</p> <p>23 Q. I mean reasonable.</p>

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<p>1 MR. STEWART: Object to the</p> <p>2 form.</p> <p>3 MR. WALKER: Object to form.</p> <p>4 A. Again, I don't know. She can say, you</p> <p>5 know, I recall certain names. But to</p> <p>6 say can she remember those names</p> <p>7 committing fraud activity, again, I</p> <p>8 don't know that.</p> <p>9 Q. I mean, just an investigator,</p> <p>10 reasonable based on your experience.</p> <p>11 MR. WALKER: Asked and</p> <p>12 answered. Object to the</p> <p>13 form.</p> <p>14 Q. Is it reasonable?</p> <p>15 MR. STEWART: Object to the</p> <p>16 form.</p> <p>17 A. For me or the person could identify the</p> <p>18 name or could I identify the names?</p> <p>19 Q. Yeah. Could a layperson just identify</p> <p>20 thirty-seven names and say yes, this</p> <p>21 was missing wheelchair and gone from</p> <p>22 the company eleven months?</p> <p>23 MR. WALLACE: Object to</p>	<p>1 A. Yes.</p> <p>2 Q. All right. Okay. Great. Thank you.</p> <p>3 EXAMINATION</p> <p>4 BY MR. WALLACE:</p> <p>5 Q. I'm Jack Wallace and I'm from the</p> <p>6 attorney general's office. I represent</p> <p>7 Gerald Shockley. Now, earlier we had</p> <p>8 some testimony concerning the</p> <p>9 allegations made by Ms. Horton. Would</p> <p>10 you tell me each and every allegation</p> <p>11 that you are aware of that Ms. Horton</p> <p>12 made?</p> <p>13 A. All I have and know about is the</p> <p>14 reports that was filed by Investigator</p> <p>15 Anthony Green and her name surmised</p> <p>16 [sic] that she was the person that</p> <p>17 filed a qui tam complaint with the AG's</p> <p>18 office.</p> <p>19 Q. And in that report, do you know the</p> <p>20 nature of the allegations? Was it</p> <p>21 strictly that there were improper dates</p> <p>22 used or dates were omitted on the</p> <p>23 documentation?</p>
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<p>1 form.</p> <p>2 MR. STEWART: Object to the</p> <p>3 form.</p> <p>4 MR. WALKER: Object to form.</p> <p>5 MR. WALLACE: When you say a</p> <p>6 layperson, please</p> <p>7 explain whether or not</p> <p>8 the layperson has</p> <p>9 significant mental</p> <p>10 illness or whether they</p> <p>11 are normal and whether</p> <p>12 or not they're taking</p> <p>13 medications.</p> <p>14 A. And now? Waiting for my response?</p> <p>15 Q. Yes, sir.</p> <p>16 A. Like I say, a reasonable person could</p> <p>17 identify the names, yes.</p> <p>18 Q. Okay. Could identify the names.</p> <p>19 A. Yes.</p> <p>20 Q. And without documentation, can you</p> <p>21 identify exactly what was going on?</p> <p>22 MR. STEWART: Object to the</p> <p>23 form.</p>	<p>1 A. Don't know. I have -- well, the</p> <p>2 letter -- I have the letter that came</p> <p>3 out to my office and to AG's office.</p> <p>4 That's all I have, yes.</p> <p>5 Q. So you don't know exactly what</p> <p>6 allegations she may have made.</p> <p>7 A. No.</p> <p>8 Q. So, therefore, you cannot testify as to</p> <p>9 whether or not she made the same</p> <p>10 allegations as whether an anonymous</p> <p>11 caller -- that an anonymous made?</p> <p>12 A. That's correct.</p> <p>13 MR. WALLACE: That's all I</p> <p>14 have.</p> <p>15 EXAMINATION</p> <p>16 BY MR. STEWART:</p> <p>17 Q. Chuck Stewart again for National</p> <p>18 Seating. We referred to this -- or I</p> <p>19 didn't, but Ms. Nickson referred to</p> <p>20 this person as an anonymous caller, and</p> <p>21 then she referred to Elizabeth Horton.</p> <p>22 Do you have any information that would</p> <p>23 lead you to conclude that the anonymous</p>

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<p>1 caller was not Elizabeth Horton?</p> <p>2 A. No.</p> <p>3 Q. Do you know whether the anonymous</p> <p>4 caller was Elizabeth Horton?</p> <p>5 A. No, I don't.</p> <p>6 Q. Is it possible the anonymous caller was</p> <p>7 Elizabeth Horton?</p> <p>8 MS. NICKSON: Object to the</p> <p>9 form.</p> <p>10 A. It's possible.</p> <p>11 Q. Let me talk a little bit about your</p> <p>12 investigator, Anthony Green. He seems</p> <p>13 to have a good bit of experience. Does</p> <p>14 he?</p> <p>15 A. Yes, sir.</p> <p>16 Q. Of your investigators, where does he</p> <p>17 fall?</p> <p>18 A. All fall -- I have seven -- six, seven</p> <p>19 investigators. All -- they have their</p> <p>20 own unique style of solving crime or</p> <p>21 solving problems, all around the same</p> <p>22 category, not one superior or above</p> <p>23 another.</p>	<p>1 actually interview anybody yourself?</p> <p>2 A. No, sir.</p> <p>3 Q. Did you actually look at any physical</p> <p>4 evidence?</p> <p>5 A. Only after the completed file was done</p> <p>6 by my investigator, Green, yes.</p> <p>7 Q. And then when you attended the</p> <p>8 interview with Ms. Barrow, was that at</p> <p>9 her request?</p> <p>10 A. Yes, it was.</p> <p>11 Q. You weren't there passing judgment on</p> <p>12 whether or not some wrongdoing had</p> <p>13 occurred?</p> <p>14 A. No.</p> <p>15 Q. Now, there was a number of questions</p> <p>16 where Ms. Nickson asked you about this</p> <p>17 time frame between an investigator</p> <p>18 visiting a business and then an</p> <p>19 investigator coming back some fifteen</p> <p>20 days or sixteen days later to actually</p> <p>21 look through documents.</p> <p>22 A. Okay.</p> <p>23 Q. You remember those questions?</p>
Page 66	Page 68
<p>1 Q. Is there anything about Mr. Green that</p> <p>2 you consider to be substandard in terms</p> <p>3 of his investigative abilities?</p> <p>4 A. No, sir.</p> <p>5 Q. Do you consider his investigative</p> <p>6 abilities to be above standard?</p> <p>7 A. Yes.</p> <p>8 Q. Do you consider them to be excellent?</p> <p>9 A. You can say yes.</p> <p>10 Q. Now, you did not review everything that</p> <p>11 Investigator Green reviewed, did you?</p> <p>12 A. No, I did not.</p> <p>13 Q. You did not review everything that the</p> <p>14 attorney general's office had on this</p> <p>15 case, did you?</p> <p>16 A. No, sir.</p> <p>17 Q. You were basically not involved in the</p> <p>18 investigation at all.</p> <p>19 A. I was not.</p> <p>20 Q. Now, you attended an interview with</p> <p>21 Ms. Barrow. I want to just set that</p> <p>22 aside for a second. Other than that</p> <p>23 interview that you attended, did you</p>	<p>1 A. Yes, I do.</p> <p>2 Q. Do you remember whether that time frame</p> <p>3 is at all accurate?</p> <p>4 A. I don't know.</p> <p>5 Q. Do you know whether or not Investigator</p> <p>6 Green actually saw some documents on</p> <p>7 the first day he was out there?</p> <p>8 A. No, I don't.</p> <p>9 Q. Do you know whether NSM engaged in any</p> <p>10 fraud in the intervening time between</p> <p>11 visit one and visit two?</p> <p>12 A. No.</p> <p>13 Q. Do you know whether they changed any</p> <p>14 documents?</p> <p>15 A. No, sir.</p> <p>16 Q. Has anybody told you that they did?</p> <p>17 A. No, sir.</p> <p>18 Q. There was some questions that</p> <p>19 Ms. Nickson asked you about of where</p> <p>20 dates were not put down on documents.</p> <p>21 Do you recall those questions?</p> <p>22 A. Yes, I do.</p> <p>23 Q. Did you have any information at any</p>

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<p>1 time during this investigation that</p> <p>2 dates were not on documents as a result</p> <p>3 of someone's specific intent to defraud</p> <p>4 the Medicaid Agency as opposed to just</p> <p>5 oversight, carelessness, or mistake?</p> <p>6 A. That's a long question. Rephrase that</p> <p>7 or --</p> <p>8 Q. I'll be happy to. You understand that</p> <p>9 fraud requires a specific intent by</p> <p>10 someone to take something away or to</p> <p>11 keep information from someone?</p> <p>12 A. Okay. Yes.</p> <p>13 Q. Did you see any evidence in your</p> <p>14 limited experience in this case that</p> <p>15 would indicate to you that someone was</p> <p>16 trying to defraud somebody as opposed</p> <p>17 to simply making a mistake or</p> <p>18 carelessness?</p> <p>19 A. From Investigator Green's report, there</p> <p>20 was nothing to determine that fraud and</p> <p>21 abuse had occurred. So based on that,</p> <p>22 that's all I had to go on, was the</p> <p>23 reports, yes.</p>	<p>1 A. Okay.</p> <p>2 Q. Is that correct?</p> <p>3 A. That's correct.</p> <p>4 Q. Who didn't put the clinic dates on</p> <p>5 there?</p> <p>6 A. I don't know.</p> <p>7 Q. And then do you know -- well, I guess,</p> <p>8 if you look at paragraph 2, it appears</p> <p>9 that Teresa Surles questioned Maddox</p> <p>10 and Rodgers about the assessments and</p> <p>11 then Teresa told Felecia Barrow what</p> <p>12 she learned?</p> <p>13 A. That's correct.</p> <p>14 Q. So that's not Felecia Barrow's</p> <p>15 firsthand information, is it? That's</p> <p>16 second- or third-hand information,</p> <p>17 isn't it?</p> <p>18 A. Yeah.</p> <p>19 Q. And if I understood you in response to</p> <p>20 Ms. Nickson's questions, you may get as</p> <p>21 many as a hundred and fifty-five</p> <p>22 complaints per week or more than five</p> <p>23 hundred a month?</p>
Page 70	Page 72
<p>1 Q. All right. And when you went through</p> <p>2 this document with Ms. Nickson that she</p> <p>3 took you through -- and I think it's</p> <p>4 got a Bates No. 14 on it.</p> <p>5 MR. STEWART: Do you know</p> <p>6 which exhibit that is?</p> <p>7 Q. Exhibit #3. I've got one, so I'll just</p> <p>8 let you borrow that one. Was today the</p> <p>9 first time that you reviewed that</p> <p>10 document?</p> <p>11 A. No.</p> <p>12 Q. This was part of something that was</p> <p>13 referred to you early on?</p> <p>14 A. Yes.</p> <p>15 Q. Back in February of 2005?</p> <p>16 A. That's correct.</p> <p>17 Q. They talk about in the first paragraph</p> <p>18 there being two assessments, two</p> <p>19 wheelchair assessments, that missed</p> <p>20 clinic date on there. The assessments</p> <p>21 were conducted by Gerry Rodgers and a</p> <p>22 Michael Maddox, both of Children's</p> <p>23 Rehab Services.</p>	<p>1 A. Well, that was her tabulation of what I</p> <p>2 said. We get calls in from twenty-five</p> <p>3 to thirty calls a day, yes.</p> <p>4 Q. And let's assume you get thirty a day</p> <p>5 and that you're not taking complaints</p> <p>6 on Saturday and Sunday. Is that fair?</p> <p>7 Or do y'all take complaints on --</p> <p>8 A. Well, we do. The calls come in on the</p> <p>9 fraud hotline. We would treat them on</p> <p>10 the next -- well, the Monday. So yes,</p> <p>11 we do have calls on the weekends also.</p> <p>12 Q. So when you were saying twenty-five to</p> <p>13 thirty you were including Saturdays and</p> <p>14 Sundays?</p> <p>15 A. Yes.</p> <p>16 Q. So seven times thirty is two ten. Two</p> <p>17 ten a week times four. About eight</p> <p>18 hundred a month?</p> <p>19 A. I think that's . . .</p> <p>20 (Simultaneous speaking of</p> <p>21 the parties)</p> <p>22 Q. Eight forty a month, according to</p> <p>23 someone in the room who can do math.</p>

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<p>1 And is it your recollection as you sit</p> <p>2 here today that you've only had two</p> <p>3 complaints against National Seating?</p> <p>4 A. That's correct.</p> <p>5 Q. Now, your office has the ability to</p> <p>6 investigate claims of fraud against</p> <p>7 Alabama Medicaid Agency.</p> <p>8 A. Yes, we do.</p> <p>9 Q. And can you think of a way that would</p> <p>10 be any more damaging to a company who</p> <p>11 is subject to Alabama Medicaid Agency</p> <p>12 than to claim that they're committing</p> <p>13 Medicaid fraud?</p> <p>14 A. No.</p> <p>15 Q. If you were trying to hurt a company,</p> <p>16 that would be a good way to do it,</p> <p>17 wouldn't it?</p> <p>18 A. Yes.</p> <p>19 Q. Do you recall the interview with</p> <p>20 Ms. Barrow well enough to state what</p> <p>21 she's testified to back then?</p> <p>22 A. Vaguely.</p> <p>23 Q. Do you recall what she actually said</p>	<p>1 Ms. Barrow ask you to be at her</p> <p>2 interview?</p> <p>3 A. She had received a call from, she says,</p> <p>4 someone from the attorney general's</p> <p>5 office wanted to interview her, and she</p> <p>6 did not know the investigator or the --</p> <p>7 and the agency. And her take was she</p> <p>8 knows that our staff do investigative</p> <p>9 work, so she asked me did I know</p> <p>10 Mr. Shockley. And I in turn told her</p> <p>11 yes, I do know him. And she said she</p> <p>12 was not familiar with the court process</p> <p>13 or question process, would I mind</p> <p>14 sitting in on her on -- during the</p> <p>15 interview process. That's all.</p> <p>16 Q. Did you know Ms. Barrow before the</p> <p>17 complaint was received against National</p> <p>18 Seating & Mobility?</p> <p>19 A. Yes, I did.</p> <p>20 Q. And how would you characterize your</p> <p>21 relationship with her?</p> <p>22 A. She's very professional, thorough, and</p> <p>23 she'd been director for a lot of years</p>
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<p>1 she knew of and what other people knew</p> <p>2 about or said to her?</p> <p>3 A. During the interview process with</p> <p>4 Ms. Barrow and Investigator Shockley?</p> <p>5 Q. Right.</p> <p>6 A. Again, no. I was there because she had</p> <p>7 asked me to be there with her, but</p> <p>8 other -- I can't recall exactly what</p> <p>9 all was actually said.</p> <p>10 Q. I mean, it was back in June of '05.</p> <p>11 A. Okay.</p> <p>12 Q. I can understand why you wouldn't</p> <p>13 remember two and half years ago, three</p> <p>14 years, whatever we're at. I told you</p> <p>15 we couldn't do math. So I won't ask</p> <p>16 you any questions about that.</p> <p>17 MR. STEWART: That's all I</p> <p>18 have. Thank you.</p> <p>19 EXAMINATION</p> <p>20 BY MR. WALKER:</p> <p>21 Q. I'm Dorman Walker, representing Don</p> <p>22 Williams, and I've got a few questions</p> <p>23 for you. Why, if you know, did</p>	<p>1 in that particular program and other</p> <p>2 program with the agencies so . . .</p> <p>3 Q. Was she someone you considered a work</p> <p>4 friend?</p> <p>5 A. Just -- friend, no. A work -- work</p> <p>6 associate, yes.</p> <p>7 Q. Okay. Somebody you saw at work?</p> <p>8 A. On a regular basis, yes.</p> <p>9 Q. And were on friendly terms with?</p> <p>10 A. Yes.</p> <p>11 Q. I was just curious. To follow up on</p> <p>12 something Mr. Stewart asked you, if</p> <p>13 someone were found to have engaged in</p> <p>14 fraud or it was believed that they were</p> <p>15 engaged in fraud, could they lose their</p> <p>16 provider number?</p> <p>17 A. Yea.</p> <p>18 Q. And if they lost their provider number,</p> <p>19 could they continue to be a provider</p> <p>20 for Medicaid?</p> <p>21 A. No.</p> <p>22 Q. So they would effectively go out of</p> <p>23 business, at least the business</p>

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<p>1 providing durable medical equipment for</p> <p>2 Medicaid recipients.</p> <p>3 A. That's correct.</p> <p>4 Q. Did you say that you had never spoken</p> <p>5 with Don Williams?</p> <p>6 A. Yes, that's correct.</p> <p>7 Q. And have you ever reviewed or seen --</p> <p>8 excuse me. Strike that.</p> <p>9 Have you ever discussed Don</p> <p>10 Williams with any other person?</p> <p>11 A. Other than Investigator Green, no.</p> <p>12 Q. Did you discuss Don Williams with</p> <p>13 Investigator Green?</p> <p>14 A. I'm going to say vaguely during this</p> <p>15 investigation, the name might have come</p> <p>16 up during the course of investigation.</p> <p>17 Q. No more than that?</p> <p>18 A. Yes.</p> <p>19 Q. Do you have any reason to believe or</p> <p>20 any evidence to support a belief that</p> <p>21 Don Williams was engaged in some sort</p> <p>22 of conspiracy to get Elizabeth Horton?</p> <p>23 A. No, I don't.</p>	<p>1 EXAMINATION</p> <p>2 BY MR. STEWART:</p> <p>3 Q. You went through the witnesses that</p> <p>4 testified at the trial, Mr. Johnson.</p> <p>5 And I think I wrote a list. You had</p> <p>6 Elizabeth Horton, Felecia Barrow, AG's</p> <p>7 staff, Gerald Shockley, Bruce</p> <p>8 Lieberman, and Mike Roeder.</p> <p>9 A. That's correct.</p> <p>10 Q. Do you recall anybody from National</p> <p>11 Seating there at trial?</p> <p>12 A. Yes. Had to be -- I'm going to say it</p> <p>13 was Don Williams. It was a man there</p> <p>14 from National Seating, so yes.</p> <p>15 Q. Do you know whether he was still</p> <p>16 employed with National Seating at the</p> <p>17 time of the trial?</p> <p>18 A. I don't know.</p> <p>19 Q. Do you remember anybody else from</p> <p>20 National Seating?</p> <p>21 A. No, sir.</p> <p>22 Q. Did Mr. Williams testify?</p> <p>23 A. Yes. Someone from National Seating did</p>
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<p>1 Q. You don't have any information about</p> <p>2 that one way or the other?</p> <p>3 A. No.</p> <p>4 MR. WALKER: Give me just</p> <p>5 one second, please. I'm</p> <p>6 probably done, but if</p> <p>7 you'd just let me check</p> <p>8 back over this.</p> <p>9 (Brief pause)</p> <p>10 MR. WALKER: That's all I</p> <p>11 have. Thank you very</p> <p>12 much, Mr. Johnson.</p> <p>13 MR. STEWART: Y'all have</p> <p>14 anything further?</p> <p>15 MS. NICKSON: No. We're not</p> <p>16 going round and round</p> <p>17 this time.</p> <p>18 MR. STEWART: I do have a</p> <p>19 few more questions that</p> <p>20 I neglected to ask, if</p> <p>21 you don't have any.</p> <p>22 MS. NICKSON: I don't have</p> <p>23 any.</p>	<p>1 testify, so yes.</p> <p>2 Q. And do you know if he received a</p> <p>3 subpoena to be there?</p> <p>4 A. I would have to say yes.</p> <p>5 Q. Were you involved at all in asking</p> <p>6 National Seating to provide information</p> <p>7 to Alabama Medicaid?</p> <p>8 A. No.</p> <p>9 Q. Were you aware that they provided a</p> <p>10 good bit of information to Alabama</p> <p>11 Medicaid?</p> <p>12 A. Yes, I was.</p> <p>13 Q. During the time, did anybody complain</p> <p>14 to you that they weren't providing</p> <p>15 everything that was asked for?</p> <p>16 A. No.</p> <p>17 Q. Did you ever hear -- did anybody say</p> <p>18 during the time of investigation that</p> <p>19 National Seating was out to get</p> <p>20 Elizabeth Horton arrested or convicted?</p> <p>21 A. No, sir.</p> <p>22 Q. Do you have any information that</p> <p>23 National Seating did anything other</p>

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<p>1 than just respond to the investigating</p> <p>2 agency's inquiries?</p> <p>3 A. No, I do not.</p> <p>4 Q. Thank you.</p> <p>5 MR. WALKER: Nothing further</p> <p>6 from me.</p> <p>7 MS. NICKSON: I do.</p> <p>8 EXAMINATION</p> <p>9 BY MS. NICKSON:</p> <p>10 Q. Let me ask you a question about Felecia</p> <p>11 Barrow. Have you had any complaints</p> <p>12 that she acts in a manner that is not</p> <p>13 consistent with Medicaid policy</p> <p>14 concerning her relationship with the</p> <p>15 vendors?</p> <p>16 MR. WALKER: Objection to</p> <p>17 form.</p> <p>18 A. No.</p> <p>19 Q. All right. Don Williams, in a report</p> <p>20 by Mr. Shockley, he told Mr. Shockley</p> <p>21 that Felecia came and ate lunch with</p> <p>22 Elizabeth Horton. Based on your time</p> <p>23 that you've known Felecia, have there</p>	<p>1 EXAMINATION</p> <p>2 BY MR. WALKER:</p> <p>3 Q. You're not saying that you know whether</p> <p>4 or not in fact that Felecia Barrow and</p> <p>5 Elizabeth Horton had lunch at National</p> <p>6 Seating one day, are you? Let me</p> <p>7 rephrase that. If the allegation was</p> <p>8 made that Felecia Barrow came out to</p> <p>9 National Seating and had lunch with</p> <p>10 Elizabeth Horton there, do you know</p> <p>11 whether or not that is correct?</p> <p>12 A. I don't know.</p> <p>13 Q. Do you have any information about that</p> <p>14 one way or the other?</p> <p>15 A. No, I do not.</p> <p>16 MR. WALKER: Thank you very</p> <p>17 much.</p> <p>18 MR. STEWART: Let me ask a</p> <p>19 follow-up question as</p> <p>20 well.</p> <p>21 EXAMINATION</p> <p>22 BY MR. STEWART:</p> <p>23 Q. Felecia Barrow, as associate director</p>
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<p>1 been any complaints that she</p> <p>2 fraternizes with the vendors' --</p> <p>3 A. No.</p> <p>4 Q. -- employees?</p> <p>5 MR. WALKER: Let her ask the</p> <p>6 question.</p> <p>7 Q. Yeah. With the vendor employees?</p> <p>8 MR. WALKER: Objection to</p> <p>9 form.</p> <p>10 MR. STEWART: Same.</p> <p>11 A. No.</p> <p>12 Q. Did Felecia ever say that she was</p> <p>13 friends with Elizabeth?</p> <p>14 A. No, not to me.</p> <p>15 Q. Based on the investigation, did</p> <p>16 anything turn up that they had a</p> <p>17 relationship outside of the work</p> <p>18 environment?</p> <p>19 A. No, ma'am.</p> <p>20 MS. NICKSON: No further</p> <p>21 questions.</p> <p>22 MR. WALKER: Let me follow</p> <p>23 up on that, if I may.</p>	<p>1 of the prior approval unit, would it be</p> <p>2 appropriate for someone in her position</p> <p>3 to be eating lunch with the very people</p> <p>4 that she is charged with overseeing?</p> <p>5 A. Again, I wouldn't know.</p> <p>6 Q. Would it be appropriate for her to go</p> <p>7 to concerts with employees of a company</p> <p>8 she's overcharged with overseeing -- or</p> <p>9 she's charged with overseeing?</p> <p>10 A. If they are friends or family, it would</p> <p>11 be. But, again, I wouldn't know. If</p> <p>12 they are friends or associates, I -- I</p> <p>13 would say that would be appropriate.</p> <p>14 Q. So it would be all right to be friends</p> <p>15 with somebody that you're overseeing?</p> <p>16 A. Yes.</p> <p>17 Q. To become friends with them after</p> <p>18 you're charged with overseeing them?</p> <p>19 A. Say it again, now.</p> <p>20 Q. How about becoming friends after you're</p> <p>21 charged with overseeing them?</p> <p>22 A. I don't know.</p> <p>23 Q. It would give you a little cause for</p>

21 (Pages 81 to 84)

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<p style="text-align: right;">Page 85</p> <p>1 concern, then, if you've learned that 2 the director was accepting meals or 3 gifts or concert tickets or something 4 from someone? 5 A. Yes. 6 MR. STEWART: That's all I 7 have. Thank you. 8 MR. WALKER: That's all I 9 have. Thank you, sir. 10 11 * * * * * 12 FURTHER DEPONENT SAITH NOT 13 * * * * * 14 15 16 17 18 19 20 21 22 23</p>	
<p style="text-align: right;">Page 86</p> <p>1 REPORTER'S CERTIFICATE 2 3 STATE OF ALABAMA) 4) 5 ELMORE COUNTY) 6 7 I do hereby certify that the above 8 and foregoing transcript was taken down 9 by me in stenotype, and the questions 10 and answers thereto were transcribed by 11 means of computer-aided transcription, 12 and that the foregoing represents a true 13 and correct transcript of the testimony 14 given by said witness. 15 I further certify that I am neither 16 of counsel, nor of any relation to the 17 parties to the action, nor am I anyway 18 interested in the result of said cause. 19 20 Barbara A. Howell, Certified 21 Court Reporter and Commissioner 22 for the State of Alabama at Large 23 ACCR NO. 123 - Expires 9/30/08 MY COMMISSION EXPIRES: 12/27/08</p>	

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BOB RILEY
Governor

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CAROL A. HERRMANN, MPH
Commissioner

MEMORANDUM

DATE: June 14, 2005

TO: File

FROM: Cliff Johnson, Chief Investigator
Investigations Unit *CJ*

SUBJECT: Case #8-04-0150
National Seating and Mobility

This case was initiated upon a complaint received from an anonymous caller indicating that National Seating and Mobility, Provider #009814350, is billing the Medicaid Agency for services not provided to recipients. The caller alleged that fraudulent activities consisted of forgery of recipients' signatures on delivery tickets for durable medical equipment and supplies; improper billing practices; and using outdated prescriptions to submit for services and supplies. The caller also stated that she is an ex-employee of this company and that she had reported this fraudulent complaint to the district attorney's office and the Attorney General's office and that she has filed a Quai Tam lawsuit with the Attorney General's office.

On 2/16/2005, I contacted Special Agent Mike Roeder, Medicaid Fraud Control Unit at the Attorney General's office, concerning the allegations in this case. Agent Roeder stated that they had received a complaint on this provider from the anonymous caller and that he is in the process of locating the complainant for a direct interview concerning the allegations in this case. Agent Roeder went on to state that MFCU will be conducting a preliminary investigation on this provider following the information they receive from the complainant and that they will contact the Alabama Medicaid Agency's Investigations Unit concerning any assistance/joint investigative actions.

**PLAINTIFF'S
EXHIBIT**

5-Johnson

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ALABAMA MEDICAID AGENCY

MEMORANDUM

DATE: July 12, 2004

TO: Cliff Johnson, Investigator
Investigations Unit

FROM: John Andersen, ^{JA}Associate Director
Provider Review

SUBJECT: Referral of National Seating and Mobility

I am referring this DME provider to you for your assessment and recommendation.
Please see the referral from the URC.
They supply a number of customized wheelchairs to disabled Medicaid children. Indeed,
that seems to be their primary business focus. Let me know if I may be of help.

cc: Jackie Gray